

RECEIVED JAN 30 AM 11:33

HOUSE OF REPRESENTATIVES

certify that the attached is a true and
correct copy of HB 281, which
was filed of record on Jan 2, 1991
and referred to the committee on:

Natural Resources

Barry Murray
Chief Clerk of the House

By Rudd

FILED JAN 02 1991

H. B. No. 281

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties,
operation, and financing of the South Plains Underground Water
Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. CREATION. (a) An underground water conservation
district, to be known as the South Plains Underground Water
Conservation District, is created in Terry County, subject to
approval at a confirmation election under Section 8 of this Act.
The district is a governmental agency and a body politic and
corporate.

(b) The district is created under and is essential to
accomplish the purposes of Article XVI, Section 59, of the Texas
Constitution.

SECTION 2. DEFINITION. In this Act, "district" means the
South Plains Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are
coextensive with the boundaries of Terry County, Texas.

SECTION 4. FINDING OF BENEFIT. All of the land and other
property included within the boundaries of the district will be
benefited by the works and projects that are to be accomplished by
the district under powers conferred by Article XVI, Section 59, of
the Texas Constitution. The district is created to serve a public
use and benefit.

1 SECTION 5. POWERS. (a) The district has all of the rights,
2 powers, privileges, authority, functions, and duties provided by
3 the general law of this state, including Chapters 50 and 52, Water
4 Code, applicable to underground water conservation districts
5 created under Article XVI, Section 59, of the Texas Constitution.
6 This Act prevails over any provision of general law that is in
7 conflict or inconsistent with this Act.

8 (b) The rights, powers, privileges, authority, functions,
9 and duties of the district are subject to the continuing right of
10 supervision of the state to be exercised by and through the Texas
11 Water Commission.

12 SECTION 6. BOARD OF DIRECTORS. (a) The district is
13 governed by a board of five directors.

14 (b) Temporary directors serve until initial directors are
15 elected under Section 8.

16 (c) Initial directors serve until permanent directors are
17 elected under Section 9.

18 (d) Permanent directors serve staggered four-year terms.

19 (e) Each director must qualify to serve as director in the
20 manner provided by Sections 51.078 and 51.079, Water Code.

21 (f) A director serves until the director's successor has
22 qualified.

23 SECTION 7. TEMPORARY DIRECTORS. (a) The temporary board of
24 directors is composed of:

25 (1) Krege Keesee

26 (2) Ray Gober

27 (3) Lewis Waters

1 (4) Doyle Moss

2 (5) Lee Wayne Rowden

3 (b) If a temporary director fails to qualify for office, the
4 temporary directors who have qualified shall appoint a person to
5 fill the vacancy. If at any time there are fewer than three
6 qualified temporary directors, the Texas Water Commission shall
7 appoint the necessary number of persons to fill all vacancies on
8 the board.

9 SECTION 8. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

10 (a) The temporary board of directors shall call and hold an
11 election to confirm establishment of the district and to elect five
12 initial directors.

13 (b) A person who desires to be a candidate for the office of
14 initial director may file an application with the temporary board
15 to have the candidate's name printed on the ballot as provided by
16 Section 52.107, Water Code.

17 (c) At the confirmation and initial directors' election, the
18 temporary board of directors shall have the names of the five
19 persons serving as temporary directors placed on the ballot
20 together with the name of any candidate filing for the office of
21 director as provided by Subsection (b) of this section and blank
22 spaces to write in the names of other persons. If the district is
23 created at the election, the temporary directors, at the time the
24 vote is canvassed, shall declare the five persons who receive the
25 most votes to be elected as the initial directors and shall include
26 the results of the directors' election in its election report to
27 the Texas Water Commission.

1 (d) Section 41.001(a), Election Code, does not apply to a
2 confirmation and initial directors' election held as provided by
3 this section.

4 (e) Except as provided by this section, a confirmation and
5 initial directors' election must be conducted as provided by
6 Sections 52.059(b)-(g), Water Code, and the Election Code.

7 SECTION 9. ELECTION OF PERMANENT DIRECTORS. On the first
8 Saturday in May of the second year after the year in which the
9 district is authorized to be created at a confirmation election, an
10 election shall be held in the district for the election of two
11 permanent directors who shall each serve two-year terms and three
12 permanent directors who shall each serve four-year terms.
13 Thereafter, on the same date in each subsequent second year, the
14 appropriate number of directors shall be elected to the board.

15 SECTION 10. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

16 (a) The proper and legal notice of the intention to introduce this
17 Act, setting forth the general substance of this Act, has been
18 published as provided by law, and the notice and a copy of this Act
19 have been furnished to all persons, agencies, officials, or
20 entities to which they are required to be furnished by the
21 constitution and other laws of this state, including the governor,
22 who has submitted the notice and Act to the Texas Water Commission.

23 (b) The Texas Water Commission has filed its recommendations
24 relating to this Act with the governor, lieutenant governor, and
25 speaker of the house of representatives within the required time.

26 (c) All requirements of the constitution and laws of this
27 state and the rules and procedures of the legislature with respect

1 to the notice, introduction, and passage of this Act are fulfilled
2 and accomplished.

3 SECTION 11. EMERGENCY. The importance of this legislation
4 and the crowded condition of the calendars in both houses create an
5 emergency and an imperative public necessity that the
6 constitutional rule requiring bills to be read on three several
7 days in each house be suspended, and this rule is hereby suspended,
8 and that this Act take effect and be in force from and after its
9 passage, and it is so enacted.

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS

SS.

COUNTY OF TERRY

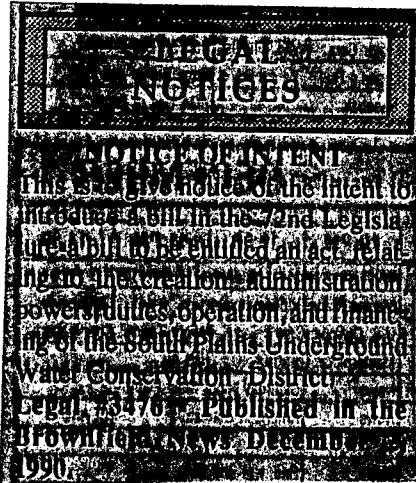
I, Lynn Brisendine, Publisher

THE BROWNFIELD NEWS

a newspaper of general circulation, printed and published in the City of Brownfield, County of Terry, State of Texas, do solemnly swear that a copy of the above notice, in the matter of

Notice Of Intent - South Plains Underground
Water Conservation District.

Legal # 3476



as per clipping attached, was published weekly in the regular and entire edition of the said newspaper, and not in any supplement thereof, for a period of

.....1.....consecutive week(s), as follows, to-wit:

First publication.....December 2....., 19.90....

Last publication.....NIL....., 19..90..

Lynn Brisendine

Publisher

Subscribed and sworn to before me, this3rd.....day ofDecember....., 19....90....

Twyla F. Clark

TWYLA F. CLARK

Notary Public

My Commission expires September 4, 1994

TEXAS WATER COMMISSION



B. J. Wynne, III, Chairman
John E. Birdwell, Commissioner
Cliff Johnson, Commissioner

John J. Vay, General Counsel
Michael E. Field, Chief Hearings Examiner
Brenda W. Foster, Chief Clerk

Allen Beinke, Executive Director

February 11, 1991

The Honorable Gib Lewis
Speaker of the House of Representatives
State Capitol Building, Room 238
Austin, Texas 78701

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59 (d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4, Section 37.

H.B. 281 by Rudd

Relating to the creation of the South Plains
Underground Water Conservation District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Allen Beinke".

Allen Beinke
Executive Director

Enclosures

cc: Representative Lewis, Chairman
House Natural Resources Committee
Representative Rudd

I certify this document to be a
true and correct copy of the Texas
Water Commission recommendations on

H.B. #

281

A handwritten signature in cursive script, appearing to read "Brenda W. Foster".
Chief Clerk of the House

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE SOUTH PLAINS
UNDERGROUND WATER CONSERVATION DISTRICT

Water Development Policy Impact Statement for House Bill 281 (H.B. 281) Regular Session, 72nd Legislature, relating to the creation, administration, powers, duties, operation, and financing of the South Plains Underground Water Conservation District follow.

Wells located within the confines of this proposed district, which encompasses all of Terry County, obtain their water principally from the Ogallala (High Plains) aquifer which underlies the entire county. Additionally, Cretaceous rocks which are in hydrologic continuity with the Ogallala and considered to be part of the High Plains aquifer, can also yield water to wells. There appears to be no hydrogeologic justification for the determination of district boundaries. Terry County has been included as a part of a TWC/TWDB Critical Area study currently underway.

H.B. 281 provides that the proposed district would have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Texas Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. Specific impact statements related to required headings follow.

- 1) **Population projections** - The boundaries of the proposed District are coterminous with the boundaries of Terry County. In 1980, the population of Terry County was 14,581 residents. The population growth pattern over the past ten years reflects a decline in the County's population with a 1990 population of 13,218. However, the Board's current population projections indicate a reversal of this trend with the County's population ranging from 14,623 to 16,996 residents by the year 2010.
- 2) **District finances** - The financing of the district is authorized by reference to Chapter 52, Water Code. The district may issue and sell bonds, and levy ad valorem taxes to pay for all or part of the bonds and for the district's maintenance. The tax rate

is unlimited for the payment of bonds issued by the district. The tax rate shall not exceed 50 cents on each \$100 of assessed valuation for maintenance taxes. The board shall also include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.

- 3) **Board of directors & powers** - This proposed district is to be governed by a board of five directors. The bill provides for and describes three sets of boards of directors. These are a temporary board, an initial permanent board, and the permanent board. The temporary directors are listed in the act. If a temporary director fails to qualify for office, the qualified temporary directors shall appoint a person to fill the vacancy. In the event there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill the vacancies. Temporary directors serve until initial permanent directors are elected and the initial permanent directors serve until the permanent directors are elected. Other than initial permanent directors, permanent directors serve staggered four-year terms. Each director serves until his successor has qualified. Each director must qualify in the manner provided by Sections 51.078 and 51.079, Texas Water Code.

The temporary board shall call and hold a confirmation election including the election of five initial permanent directors. A person who desires to be a candidate for the office of initial permanent director may file an application with the temporary board to have their name printed on the ballot as provided by Section 52.107, Texas Water Code. At the election, the names of the five persons serving as temporary directors, together with any candidate filing for the office of director, shall be placed on the ballot. The ballot shall also provide blank spaces to write in the names of other persons. If the district is created at this election, the temporary directors at the time the vote is canvassed, shall declare the persons who receive the most votes to be elected as the initial permanent directors. The district shall include the results of the election in its election report to the Texas Water Commission. Section 41.001(a), Election Code, does not apply to the confirmation election; however, it must be conducted as provided by Sections 52.059(b) - (g), Texas Water Code, and the Election Code.

On the first Saturday of May of the second year after the year in which the district is authorized to be created, an election shall be held for the election of two permanent directors who shall serve two-year terms and three permanent directors who shall each serve four-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board. Thus, the permanent directors serve staggered four-year terms.

The district will have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapters 50 and 52, Texas Water Code, applicable to underground water conservation districts created under Article XVI, Section 59 of the Texas Constitution. These will primarily include the making and enforcement of rules for conserving, preserving, protecting, recharging, controlling subsidence, and preventing the waste of water of an underground water reservoir. The district would also have the authority to regulate spacing and production of water wells. This act prevails over any provision of general law that is in conflict or inconsistent with it.

- 4) **Effect on Texas Water Development Board's water plan** - The current and future water needs of the County's population, industries, and agriculture will continue to rely on area ground-water resources. The Board finds that creation of the proposed District agrees with the Board's State Water Plan objective of promoting the efficient use of ground-water resources and implementation of management programs for addressing local ground-water problems in order to enhance the availability of local ground-water supplies.
- 5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Sections 50.101 through 50.106, Texas Water Code, as well as the general reporting requirements mandated by the Texas Water Commission.

Annually, the district shall make available to the Commission information that it acquires concerning underground water resources within its

jurisdiction. The district shall also provide information to the Commission concerning its plans and activities in conserving and protecting underground water resources (Section 52.173).

Issuance of bonds and notes authorized for certain items must be approved by the Commission in the manner provided for in Chapter 52, Subchapter G, Texas Water Code. These include those authorized to: 1) erect or construct dams or to drain lakes, draws, depressions, and creeks; and 2) install pumps and other equipment.

- 6) **Eminent domain power** - This district may exercise this power to acquire any land or other property necessary to carry out this act.
- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district.
- 8) **Adequacy of the boundary description** - The bill provides that the district include all the area of Terry County, therefore, the boundary description is adequate in terms of closure. Portions of this county lie within Subdivision No. 4 of the Underground Water Reservoir in the Ogallala Formation, South of the Canadian River, which was delineated in 1956. This area was also part of The South Plains Underground Water Conservation District No. 4, which was created in 1966 and ruled invalid by the Texas Supreme Court. Another attempt was made to form a district, but it was not confirmed by the voters. There are no apparent conflicts between the boundaries of this district and other existing entities.
- 9) **Comment on powers and duties different from similar types of districts** - This bill proposes the creation of an underground water conservation district, with the powers that are given in

Chapters 50 and 52, Texas Water Code, related to these districts. There are no unusual or special powers or duties which have been granted to this district.

It is noted that Chapter 52 was amended in 1989 to remove references to Chapter 51. A new section was added to Chapter 52 providing for the oath of office taken by directors. This provision, Section 52.108, conflicts

with Section 51.078 referenced specifically in H.B. 281. However, the bill does contain the standard language providing that the act shall prevail in cases of conflict with general laws.

I certify this document to be a
true and correct copy of the Texas
Water Commission recommendations on

H.B. # 281

Betty Murray
Chief Clerk of the House

HOUSE COMMITTEE REPORT

91 FEB 19 AM 12:30
HOUSE OF REPRESENTATIVES

1st Printing

By Rudd

H.B. No. 281

Substitute the following for H.B. No. 281:

By Yost

C.S.H.B. No. 281

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the South Plains Underground Water Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. CREATION. (a) An underground water conservation district, to be known as the South Plains Underground Water Conservation District, is created in Terry County, subject to approval at a confirmation election under Section 10 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Article XVI, Section 59, of the Texas Constitution.

SECTION 2. DEFINITION. In this Act, "district" means the South Plains Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Terry County, Texas.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.

1 SECTION 5. POWERS. (a) The district has all of the rights,
2 powers, privileges, authority, functions, and duties provided by
3 the general law of this state, including Chapters 50 and 52, Water
4 Code, applicable to underground water conservation districts
5 created under Article XVI, Section 59, of the Texas Constitution.
6 This Act prevails over any provision of general law that is in
7 conflict or inconsistent with this Act.

8 (b) The rights, powers, privileges, authority, functions,
9 and duties of the district are subject to the continuing right of
10 supervision of the state to be exercised by and through the Texas
11 Water Commission.

12 SECTION 6. ELECTION OF DIRECTORS. (a) The directors of the
13 district shall be elected according to the commissioners precinct
14 method as provided by this Act.

15 (b) One director shall be elected by the electors of the
16 entire district, and one director shall be elected from each county
17 commissioners precinct by the electors of that precinct.

18 (c) A person shall indicate on the application for a place
19 on the ballot the precinct that the person seeks to represent or
20 that the person seeks to represent the district at large.

21 (d) At the first election after the county commissioners
22 precincts are redrawn under Article V, Section 18, of the Texas
23 Constitution, four new directors shall be elected to represent the
24 precincts. The directors elected shall draw lots to determine
25 their terms.

26 SECTION 7. BOARD OF DIRECTORS. (a) The district is
27 governed by a board of five directors.

1 (b) A vacancy in the office of director shall be filled by
2 appointment of the board until the next election for directors. If
3 the position is not scheduled to be filled at the election, the
4 person elected to fill the position shall serve only for the
5 remainder of the unexpired term.

6 (c) To be eligible to serve as director, a person must be a
7 registered voter in the precinct from which the person is elected
8 or appointed if representing a precinct or in the district if
9 representing the district at large.

10 SECTION 8. SERVICE OF DIRECTORS. (a) Temporary directors
11 serve until initial directors are elected under Section 10.

12 (b) Initial directors serve until permanent directors are
13 elected under Section 11.

14 (c) Permanent directors serve staggered four-year terms.

15 (d) Each director must qualify to serve as director in the
16 manner provided by Sections 51.078 and 51.079, Water Code.

17 (e) A director serves until the director's successor has
18 qualified.

19 SECTION 9. TEMPORARY DIRECTORS. (a) The temporary board of
20 directors is composed of:

21 (1) Lewis Waters - at large

22 (2) Doyle Moss - Precinct No. 1

23 (3) Ray Gober - Precinct No. 2

24 (4) Charles Ray Smith - Precinct No. 3

25 (5) Lee Wayne Rowden - Precinct No. 4

26 (b) If a temporary director fails to qualify for office, the
27 temporary directors who have qualified shall appoint a person to

1 fill the vacancy. If at any time there are fewer than three
2 qualified temporary directors, the Texas Water Commission shall
3 appoint the necessary number of persons to fill all vacancies on
4 the board.

5 SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

6 (a) The temporary board of directors shall call and hold an
7 election to confirm establishment of the district and to elect five
8 initial directors.

9 (b) A person, including a temporary director, who desires to
10 be a candidate for the office of initial director may file an
11 application with the temporary board to have the candidate's name
12 printed on the ballot as provided by Section 52.107, Water Code.

13 (c) At the confirmation and initial directors' election, the
14 temporary board of directors shall have the name of any candidate
15 filing for the office of director as provided by Subsection (b) of
16 this section placed on the ballot and blank spaces to write in the
17 names of other persons. If the district is created at the
18 election, the temporary directors, at the time the vote is
19 canvassed, shall declare the person who receives the most votes in
20 each precinct to be elected as director for that precinct and the
21 person who receives the most votes in the district to be elected as
22 director for the district at large. The district shall include the
23 results of the directors' election in its election report to the
24 Texas Water Commission.

25 (d) Section 41.001(a), Election Code, does not apply to a
26 confirmation and initial directors' election held as provided by
27 this section.

1 (e) Except as provided by this section, a confirmation and
2 initial directors' election must be conducted as provided by
3 Sections 52.059(b)-(g), Water Code, and by the Election Code.

4 SECTION 11. ELECTION OF DIRECTORS. On the first Saturday in
5 May of the second year after the year in which the district is
6 authorized to be created at a confirmation election, an election
7 shall be held in the district for the election of the directors for
8 Precinct Nos. 1 and 3, who shall each serve two-year terms, and the
9 directors for Precinct Nos. 2 and 4 and for the district at large,
10 who shall each serve four-year terms. Thereafter, on the same date
11 in each subsequent second year, the appropriate number of directors
12 shall be elected to the board.

13 SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

14 (a) The proper and legal notice of the intention to introduce this
15 Act, setting forth the general substance of this Act, has been
16 published as provided by law, and the notice and a copy of this Act
17 have been furnished to all persons, agencies, officials, or
18 entities to which they are required to be furnished by the
19 constitution and other laws of this state, including the governor,
20 who has submitted the notice and Act to the Texas Water Commission.

21 (b) The Texas Water Commission has filed its recommendations
22 relating to this Act with the governor, lieutenant governor, and
23 speaker of the house of representatives within the required time.

24 (c) All requirements of the constitution and laws of this
25 state and the rules and procedures of the legislature with respect
26 to the notice, introduction, and passage of this Act are fulfilled
27 and accomplished.

1 SECTION 13. EMERGENCY. The importance of this legislation
2 and the crowded condition of the calendars in both houses create an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to be read on three several
5 days in each house be suspended, and this rule is hereby suspended,
6 and that this Act take effect and be in force from and after its
7 passage, and it is so enacted.

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

February 18, 1991
(date)

Sir:
We, your COMMITTEE ON NATURAL RESOURCES,
to whom was referred HB 281 have had the same under consideration and beg to report
(measure)

back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- (X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. () yes (X) no An author's fiscal statement was requested. (X) yes () no

A criminal justice policy impact statement was requested. () yes (X) no

An equalized educational funding impact statement was requested. () yes (X) no

An actuarial analysis was requested. () yes (X) no

A water development policy impact statement was requested. (X) yes () no

A federal funds impact statement was requested. () yes (X) no

(X) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

This measure (X) proposes new law. () amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Lewis, R., Ch.	X			
Willy, V.C.	X			
Collazo, C.B.O.				X
Bosse	X			
Greenberg	X			
Haggerty	X			
Hilderbran				X
Puente	X			
Yost	X			

Total 7 aye
 0 nay
 0 present, not voting
 2 absent

Ron Lewis
CHAIRMAN
Deborah K. McCall
COMMITTEE COORDINATOR

BILL ANALYSIS

BACKGROUND

It is believed that the creation of the South Plains Underground Conservation District would be of benefit to the residents in the area.

PURPOSE OF THE BILL

This bill creates the South Plains Underground Water Conservation District.

SECTION BY SECTION ANALYSIS

Section 1. Creates the district and establishes it as essential to fulfilling Article XVI, Section 59, of the Texas Constitution.

Section 2. Defines "district."

Section 3. Finds the boundaries of the district to be coextensive with the boundaries of Terry County.

Section 4. Finds public use and benefit.

Section 5. Provides the district with the powers provided by Article XVI, Section 59, Texas Constitution and Chapters 50 and 52, Water Code. Provides for supervision by the Texas Water Commission.

Section 6. Provides for the election of directors according to the commissioner's precinct method as provided by this Act.

Section 7. Provides for a board of 5 directors, the filling of vacancies, and the qualifications for directors.

Section 8. Provides for temporary directors, initial directors, and four-year staggered terms and qualifications for permanent directors to follow Sections 51.078 and 51.079, Water Code.

Section 9. Names the temporary directors by precinct and provides for the filling of vacancies.

Section 10. Provides for the election and confirmation of initial directors, as provided by Sections 52.107, and 52.059(b)-(g), Water Code, and the Election Code excepting Section 41.001(a), Election Code.

Section 11. Provides for the election of directors on the first Saturday in May after the district confirmation election. Directors shall serve two (precincts 1 and 3) and four (precincts 2 and 4 and at large) year terms.

Section 12. Legislative findings that procedural requirements with respect to notice have been fulfilled.

Section 13. Emergency clause. Effective date: upon passage.

COMPARISON OF SUBSTITUTE TO ORIGINAL BILL

CSHB 281 provides for the permanent directors' election according to the commissioner's precinct method, their filling of vacancies, and their eligibility requirements.

RULEMAKING AUTHORITY

It is the opinion of this committee that this bill does not delegate rulemaking authority to any state agency, officer, department, or institution.

SUMMARY OF COMMITTEE ACTION

HB 281 was referred directly to the Subcommittee on Water Districts. The subcommittee is comprised of the following members: Yost, Chair; Greenberg and Haggerty. Public notice was posted in accordance with the House Rules and HB 281 was considered in a public hearing of the subcommittee on February 12, 1991. A committee substitute was laid out for the bill by Chairman Yost. The following testified in favor of CSHB 281: Lewis M. Waters, representing himself; Graham Swain, representing the Brownsfield Chamber of Commerce; and Doyle Moss, representing himself. A motion was made to amend the bill to correct the two names of the temporary board members representing precincts 1 and 2 which were inadvertently reversed. The motion prevailed without objection. The motion to report HB 281, as substituted, favorably back to the full committee carried with a vote of 3 ayes, 0 nays, 0 absent, and 0 PNV.

In accordance with the House Rules, public notice was posted and the subcommittee report on HB 281 was heard in a public hearing of the Full Committee on February 18, 1991. No witnesses were present on the bill. The motion to adopt the subcommittee report prevailed without objection. The motion to report HB 281, as substituted, favorably back to the Full House with the recommendation that it be placed on the Local and Consent Calendar carried with a vote of 7 ayes, 0 nays, 0 PNV, and 2 absent.

Texas House of Representatives

STATE REPRESENTATIVE

Jim D. Rudd

☐ P.O. Box 2910
Austin, Texas 78768-2910
(512) 463-0678
Rm. 313, Capitol

☐ 420 W. Main
Brownfield, Texas 79316
(806) 637-7616

February 4, 1991

The Honorable Ron Lewis, Chair
House Committee on Natural Resources
Reagan Building, Room 214

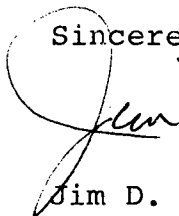
Dear Chairman Lewis:

Please accept the following as the fiscal projections regarding HB 281 relating to the creation, administration, powers, duties, operation and financing of the South Plains Underground Water Conservation District.

1992 -	\$100,000.00
1993 -	75,000.00
1994 -	75,000.00
1995 -	75,000.00
1996 -	75,000.00

If I can be of further service, please contact me.

Sincerely,



Jim D. Rudd

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
John E. Birdwell, Commissioner
Cliff Johnson, Commissioner



John J. Vay, General Counsel
Michael E. Field, Chief Hearings Examiner
Brenda W. Foster, Chief Clerk

Allen Beinke, Executive Director

February 11, 1991

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Speaker of the House of Representatives
State Capitol Building, Room 238
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H.B. 281 by Rudd

Relating to the creation of the South Plains
Underground Water Conservation District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Allen Beinke", is written over the typed name.

Allen Beinke
Executive Director

Enclosures

cc: Representative Lewis, Chairman
House Natural Resources Committee
Representative Rudd

I certify this document to be a
true and correct copy of the Texas
Water Commission recommendations on

H.B. # 281
A handwritten signature in cursive script, appearing to read "Brenda W. Foster", is written over the typed name.
Chief Clerk of the House

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE SOUTH PLAINS
UNDERGROUND WATER CONSERVATION DISTRICT

Water Development Policy Impact Statement for House Bill 281 (H.B. 281) Regular Session, 72nd Legislature, relating to the creation, administration, powers, duties, operation, and financing of the South Plains Underground Water Conservation District follow.

Wells located within the confines of this proposed district, which encompasses all of Terry County, obtain their water principally from the Ogallala (High Plains) aquifer which underlies the entire county. Additionally, Cretaceous rocks which are in hydrologic continuity with the Ogallala and considered to be part of the High Plains aquifer, can also yield water to wells. There appears to be no hydrogeologic justification for the determination of district boundaries. Terry County has been included as a part of a TWC/TWDB Critical Area study currently underway.

H.B. 281 provides that the proposed district would have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Texas Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. Specific impact statements related to required headings follow.

- 1) **Population projections** - The boundaries of the proposed District are coterminous with the boundaries of Terry County. In 1980, the population of Terry County was 14,581 residents. The population growth pattern over the past ten years reflects a decline in the County's population with a 1990 population of 13,218. However, the Board's current population projections indicate a reversal of this trend with the County's population ranging from 14,623 to 16,996 residents by the year 2010.
- 2) **District finances** - The financing of the district is authorized by reference to Chapter 52, Water Code. The district may issue and sell bonds, and levy ad valorem taxes to pay for all or part of the bonds and for the district's maintenance. The tax rate

is unlimited for the payment of bonds issued by the district. The tax rate shall not exceed 50 cents on each \$100 of assessed valuation for maintenance taxes. The board shall also include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.

- 3) **Board of directors & powers** - This proposed district is to be governed by a board of five directors. The bill provides for and describes three sets of boards of directors. These are a temporary board, an initial permanent board, and the permanent board. The temporary directors are listed in the act. If a temporary director fails to qualify for office, the qualified temporary directors shall appoint a person to fill the vacancy. In the event there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill the vacancies. Temporary directors serve until initial permanent directors are elected and the initial permanent directors serve until the permanent directors are elected. Other than initial permanent directors, permanent directors serve staggered four-year terms. Each director serves until his successor has qualified. Each director must qualify in the manner provided by Sections 51.078 and 51.079, Texas Water Code.

The temporary board shall call and hold a confirmation election including the election of five initial permanent directors. A person who desires to be a candidate for the office of initial permanent director may file an application with the temporary board to have their name printed on the ballot as provided by Section 52.107, Texas Water Code. At the election, the names of the five persons serving as temporary directors, together with any candidate filing for the office of director, shall be placed on the ballot. The ballot shall also provide blank spaces to write in the names of other persons. If the district is created at this election, the temporary directors at the time the vote is canvassed, shall declare the persons who receive the most votes to be elected as the initial permanent directors. The district shall include the results of the election in its election report to the Texas Water Commission. Section 41.001(a), Election Code, does not apply to the confirmation election; however, it must be conducted as provided by Sections 52.059(b) - (g), Texas Water Code, and the Election Code.

On the first Saturday of May of the second year after the year in which the district is authorized to be created, an election shall be held for the election of two permanent directors who shall serve two-year terms and three permanent directors who shall each serve four-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board. Thus, the permanent directors serve staggered four-year terms.

The district will have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapters 50 and 52, Texas Water Code, applicable to underground water conservation districts created under Article XVI, Section 59 of the Texas Constitution. These will primarily include the making and enforcement of rules for conserving, preserving, protecting, recharging, controlling subsidence, and preventing the waste of water of an underground water reservoir. The district would also have the authority to regulate spacing and production of water wells. This act prevails over any provision of general law that is in conflict or inconsistent with it.

- 4) **Effect on Texas Water Development Board's water plan** - The current and future water needs of the County's population, industries, and agriculture will continue to rely on area ground-water resources. The Board finds that creation of the proposed District agrees with the Board's State Water Plan objective of promoting the efficient use of ground-water resources and implementation of management programs for addressing local ground-water problems in order to enhance the availability of local ground-water supplies.
- 5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Sections 50.101 through 50.106, Texas Water Code, as well as the general reporting requirements mandated by the Texas Water Commission.

Annually, the district shall make available to the Commission information that it acquires concerning underground water resources within its

jurisdiction. The district shall also provide information to the Commission concerning its plans and activities in conserving and protecting underground water resources (Section 52.173).

Issuance of bonds and notes authorized for certain items must be approved by the Commission in the manner provided for in Chapter 52, Subchapter G, Texas Water Code. These include those authorized to: 1) erect or construct dams or to drain lakes, draws, depressions, and creeks; and 2) install pumps and other equipment.

- 6) **Eminent domain power** - This district may exercise this power to acquire any land or other property necessary to carry out this act.
- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district.
- 8) **Adequacy of the boundary description** - The bill provides that the district include all the area of Terry County, therefore, the boundary description is adequate in terms of closure. Portions of this county lie within Subdivision No. 4 of the Underground Water Reservoir in the Ogallala Formation, South of the Canadian River, which was delineated in 1956. This area was also part of The South Plains Underground Water Conservation District No. 4, which was created in 1966 and ruled invalid by the Texas Supreme Court. Another attempt was made to form a district, but it was not confirmed by the voters. There are no apparent conflicts between the boundaries of this district and other existing entities.
- 9) **Comment on powers and duties different from similar types of districts** - This bill proposes the creation of an underground water conservation district, with the powers that are given in

Chapters 50 and 52, Texas Water Code, related to these districts. There are no unusual or special powers or duties which have been granted to this district.

It is noted that Chapter 52 was amended in 1989 to remove references to Chapter 51. A new section was added to Chapter 52 providing for the oath of office taken by directors. This provision, Section 52.108, conflicts

with Section 51.078 referenced specifically in H.B. 281. However, the bill does contain the standard language providing that the act shall prevail in cases of conflict with general laws.

I certify this document to be
true and correct copy of the
Water Commission record.

H.B. # 281

[Signature]
Chief Clerk of the House

ADOPTED

MAR 7 1991

Betty Murray
Chief Clerk
House of Representatives

By Rudd

H.B. No. 281

Substitute the following for H.B. No. 281:

By *[Signature]*

C.S.H.B. No. 281

A BILL TO BE ENTITLED

AN ACT

1 relating to the creation, administration, powers, duties,
2 operation, and financing of the South Plains Underground Water
3 Conservation District.
4

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. CREATION. (a) An underground water conservation
7 district, to be known as the South Plains Underground Water
8 Conservation District, is created in Terry County, subject to
9 approval at a confirmation election under Section 10 of this Act.
10 The district is a governmental agency and a body politic and
11 corporate.

12 (b) The district is created under and is essential to
13 accomplish the purposes of Article XVI, Section 59, of the Texas
14 Constitution.

15 SECTION 2. DEFINITION. In this Act, "district" means the
16 South Plains Underground Water Conservation District.

17 SECTION 3. BOUNDARIES. The boundaries of the district are
18 coextensive with the boundaries of Terry County, Texas.

19 SECTION 4. FINDING OF BENEFIT. All of the land and other
20 property included within the boundaries of the district will be
21 benefited by the works and projects that are to be accomplished by
22 the district under powers conferred by Article XVI, Section 59, of
23 the Texas Constitution. The district is created to serve a public
24 use and benefit.

1 SECTION 5. POWERS. (a) The district has all of the rights,
2 powers, privileges, authority, functions, and duties provided by
3 the general law of this state, including Chapters 50 and 52, Water
4 Code, applicable to underground water conservation districts
5 created under Article XVI, Section 59, of the Texas Constitution.
6 This Act prevails over any provision of general law that is in
7 conflict or inconsistent with this Act.

8 (b) The rights, powers, privileges, authority, functions,
9 and duties of the district are subject to the continuing right of
10 supervision of the state to be exercised by and through the Texas
11 Water Commission.

12 SECTION 6. ELECTION OF DIRECTORS. (a) The directors of the
13 district shall be elected according to the commissioners precinct
14 method as provided by this Act.

15 (b) One director shall be elected by the electors of the
16 entire district, and one director shall be elected from each county
17 commissioners precinct by the electors of that precinct.

18 (c) A person shall indicate on the application for a place
19 on the ballot the precinct that the person seeks to represent or
20 that the person seeks to represent the district at large.

21 (d) At the first election after the county commissioners
22 precincts are redrawn under Article V, Section 18, of the Texas
23 Constitution, four new directors shall be elected to represent the
24 precincts. The directors elected shall draw lots to determine
25 their terms.

26 SECTION 7. BOARD OF DIRECTORS. (a) The district is
27 governed by a board of five directors.

1 (b) A vacancy in the office of director shall be filled by
2 appointment of the board until the next election for directors. If
3 the position is not scheduled to be filled at the election, the
4 person elected to fill the position shall serve only for the
5 remainder of the unexpired term.

6 (c) To be eligible to serve as director, a person must be a
7 registered voter in the precinct from which the person is elected
8 or appointed if representing a precinct or in the district if
9 representing the district at large.

10 SECTION 8. SERVICE OF DIRECTORS. (a) Temporary directors
11 serve until initial directors are elected under Section 10.

12 (b) Initial directors serve until permanent directors are
13 elected under Section 11.

14 (c) Permanent directors serve staggered four-year terms.

15 (d) Each director must qualify to serve as director in the
16 manner provided by Sections 51.078 and 51.079, Water Code.

17 (e) A director serves until the director's successor has
18 qualified.

19 SECTION 9. TEMPORARY DIRECTORS. (a) The temporary board of
20 directors is composed of:

- 21 (1) Lewis Waters - at large
22 (2) Doyle Moss - Precinct No. 1
23 (3) Ray Gober - Precinct No. 2
24 (4) Charles Ray Smith - Precinct No. 3
25 (5) Lee Wayne Rowden - Precinct No. 4

26 (b) If a temporary director fails to qualify for office, the
27 temporary directors who have qualified shall appoint a person to

1 fill the vacancy. If at any time there are fewer than three
2 qualified temporary directors, the Texas Water Commission shall
3 appoint the necessary number of persons to fill all vacancies on
4 the board.

5 SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

6 (a) The temporary board of directors shall call and hold an
7 election to confirm establishment of the district and to elect five
8 initial directors.

9 (b) A person, including a temporary director, who desires to
10 be a candidate for the office of initial director may file an
11 application with the temporary board to have the candidate's name
12 printed on the ballot as provided by Section 52.107, Water Code.

13 (c) At the confirmation and initial directors' election, the
14 temporary board of directors shall have the name of any candidate
15 filing for the office of director as provided by Subsection (b) of
16 this section placed on the ballot and blank spaces to write in the
17 names of other persons. If the district is created at the
18 election, the temporary directors, at the time the vote is
19 canvassed, shall declare the person who receives the most votes in
20 each precinct to be elected as director for that precinct and the
21 person who receives the most votes in the district to be elected as
22 director for the district at large. The district shall include the
23 results of the directors' election in its election report to the
24 Texas Water Commission.

25 (d) Section 41.001(a), Election Code, does not apply to a
26 confirmation and initial directors' election held as provided by
27 this section.

1 (e) Except as provided by this section, a confirmation and
2 initial directors' election must be conducted as provided by
3 Sections 52.059(b)-(g), Water Code, and by the Election Code.

4 SECTION 11. ELECTION OF DIRECTORS. On the first Saturday in
5 May of the second year after the year in which the district is
6 authorized to be created at a confirmation election, an election
7 shall be held in the district for the election of the directors for
8 Precinct Nos. 1 and 3, who shall each serve two-year terms, and the
9 directors for Precinct Nos. 2 and 4 and for the district at large,
10 who shall each serve four-year terms. Thereafter, on the same date
11 in each subsequent second year, the appropriate number of directors
12 shall be elected to the board.

13 SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

14 (a) The proper and legal notice of the intention to introduce this
15 Act, setting forth the general substance of this Act, has been
16 published as provided by law, and the notice and a copy of this Act
17 have been furnished to all persons, agencies, officials, or
18 entities to which they are required to be furnished by the
19 constitution and other laws of this state, including the governor,
20 who has submitted the notice and Act to the Texas Water Commission.

21 (b) The Texas Water Commission has filed its recommendations
22 relating to this Act with the governor, lieutenant governor, and
23 speaker of the house of representatives within the required time.

24 (c) All requirements of the constitution and laws of this
25 state and the rules and procedures of the legislature with respect
26 to the notice, introduction, and passage of this Act are fulfilled
27 and accomplished.

1 SECTION 13. EMERGENCY. The importance of this legislation
2 and the crowded condition of the calendars in both houses create an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to be read on three several
5 days in each house be suspended, and this rule is hereby suspended,
6 and that this Act take effect and be in force from and after its
7 passage, and it is so enacted.

TEXAS WATER COMMISSION



B. J. Wynne, III, Chairman
John E. Birdwell, Commissioner
Cliff Johnson, Commissioner

John J. Vay, General Counsel
Michael E. Field, Chief Hearings Examiner
Brenda W. Foster, Chief Clerk

Allen Beinke, Executive Director

February 11, 1991

The Honorable Gib Lewis
Speaker of the House of Representatives
State Capitol Building, Room 238
Austin, Texas 78701

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59 (d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4, Section 37.

H.B. 281 by Rudd

Relating to the creation of the South Plains
Underground Water Conservation District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

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for Allen Beinke
Executive Director

Enclosures

cc: Representative Lewis, Chairman
House Natural Resources Committee
Representative Rudd

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE SOUTH PLAINS
UNDERGROUND WATER CONSERVATION DISTRICT

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is unlimited for the payment of bonds issued by the district. The tax rate shall not exceed 50 cents on each \$100 of assessed valuation for maintenance taxes. The board shall also include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.

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- 6) **Eminent domain power** - This district may exercise this power to acquire any land or other property necessary to carry out this act.
- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district.
- 8) **Adequacy of the boundary description** - The bill provides that the district include all the area of Terry County, therefore, the boundary description is adequate in terms of closure. Portions of this county lie within Subdivision No. 4 of the Underground Water Reservoir in the Ogallala Formation, South of the Canadian River, which was delineated in 1956. This area was also part of The South Plains Underground Water Conservation District No. 4, which was created in 1966 and ruled invalid by the Texas Supreme Court. Another attempt was made to form a district, but it was not confirmed by the voters. There are no apparent conflicts between the boundaries of this district and other existing entities.
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Chapters 50 and 52, Texas Water Code, related to these districts. There are no unusual or special powers or duties which have been granted to this district.

It is noted that Chapter 52 was amended in 1989 to remove references to Chapter 51. A new section was added to Chapter 52 providing for the oath of office taken by directors. This provision, Section 52.108, conflicts

with Section 51.078 referenced specifically in H.B. 281. However, the bill does contain the standard language providing that the act shall prevail in cases of conflict with general laws.

HOUSE ENGROSSMENT

91 MAR -7 PM 9: 07

HOUSE OF REPRESENTATIVES



By Rudd

H.B. No. 281

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the South Plains Underground Water Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. CREATION. (a) An underground water conservation district, to be known as the South Plains Underground Water Conservation District, is created in Terry County, subject to approval at a confirmation election under Section 10 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Article XVI, Section 59, of the Texas Constitution.

SECTION 2. DEFINITION. In this Act, "district" means the South Plains Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Terry County, Texas.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.

1 SECTION 5. POWERS. (a) The district has all of the rights,
2 powers, privileges, authority, functions, and duties provided by
3 the general law of this state, including Chapters 50 and 52, Water
4 Code, applicable to underground water conservation districts
5 created under Article XVI, Section 59, of the Texas Constitution.
6 This Act prevails over any provision of general law that is in
7 conflict or inconsistent with this Act.

8 (b) The rights, powers, privileges, authority, functions,
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10 supervision of the state to be exercised by and through the Texas
11 Water Commission.

12 SECTION 6. ELECTION OF DIRECTORS. (a) The directors of the
13 district shall be elected according to the commissioners precinct
14 method as provided by this Act.

15 (b) One director shall be elected by the electors of the
16 entire district, and one director shall be elected from each county
17 commissioners precinct by the electors of that precinct.

18 (c) A person shall indicate on the application for a place
19 on the ballot the precinct that the person seeks to represent or
20 that the person seeks to represent the district at large.

21 (d) At the first election after the county commissioners
22 precincts are redrawn under Article V, Section 18, of the Texas
23 Constitution, four new directors shall be elected to represent the
24 precincts. The directors elected shall draw lots to determine
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27 governed by a board of five directors.

1 (b) A vacancy in the office of director shall be filled by
2 appointment of the board until the next election for directors. If
3 the position is not scheduled to be filled at the election, the
4 person elected to fill the position shall serve only for the
5 remainder of the unexpired term.

6 (c) To be eligible to serve as director, a person must be a
7 registered voter in the precinct from which the person is elected
8 or appointed if representing a precinct or in the district if
9 representing the district at large.

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13 elected under Section 11.

14 (c) Permanent directors serve staggered four-year terms.

15 (d) Each director must qualify to serve as director in the
16 manner provided by Sections 51.078 and 51.079, Water Code.

17 (e) A director serves until the director's successor has
18 qualified.

19 SECTION 9. TEMPORARY DIRECTORS. (a) The temporary board of
20 directors is composed of:

21 (1) Lewis Waters - at large

22 (2) Doyle Moss - Precinct No. 1

23 (3) Ray Gober - Precinct No. 2

24 (4) Charles Ray Smith - Precinct No. 3

25 (5) Lee Wayne Rowden - Precinct No. 4

26 (b) If a temporary director fails to qualify for office, the
27 temporary directors who have qualified shall appoint a person to

1 fill the vacancy. If at any time there are fewer than three
2 qualified temporary directors, the Texas Water Commission shall
3 appoint the necessary number of persons to fill all vacancies on
4 the board.

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6 (a) The temporary board of directors shall call and hold an
7 election to confirm establishment of the district and to elect five
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9 (b) A person, including a temporary director, who desires to
10 be a candidate for the office of initial director may file an
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13 (c) At the confirmation and initial directors' election, the
14 temporary board of directors shall have the name of any candidate
15 filing for the office of director as provided by Subsection (b) of
16 this section placed on the ballot and blank spaces to write in the
17 names of other persons. If the district is created at the
18 election, the temporary directors, at the time the vote is
19 canvassed, shall declare the person who receives the most votes in
20 each precinct to be elected as director for that precinct and the
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23 results of the directors' election in its election report to the
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8 Precinct Nos. 1 and 3, who shall each serve two-year terms, and the
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11 in each subsequent second year, the appropriate number of directors
12 shall be elected to the board.

13 SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

14 (a) The proper and legal notice of the intention to introduce this
15 Act, setting forth the general substance of this Act, has been
16 published as provided by law, and the notice and a copy of this Act
17 have been furnished to all persons, agencies, officials, or
18 entities to which they are required to be furnished by the
19 constitution and other laws of this state, including the governor,
20 who has submitted the notice and Act to the Texas Water Commission.

21 (b) The Texas Water Commission has filed its recommendations
22 relating to this Act with the governor, lieutenant governor, and
23 speaker of the house of representatives within the required time.

24 (c) All requirements of the constitution and laws of this
25 state and the rules and procedures of the legislature with respect
26 to the notice, introduction, and passage of this Act are fulfilled
27 and accomplished.

1 SECTION 13. EMERGENCY. The importance of this legislation
2 and the crowded condition of the calendars in both houses create an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to be read on three several
5 days in each house be suspended, and this rule is hereby suspended,
6 and that this Act take effect and be in force from and after its
7 passage, and it is so enacted.

Texas House of Representatives



- ☐ P.O. Box 2910
Austin, Texas 78768-2910
(512) 463-0678
Rm. 313, Capitol
- ☐ 420 W. Main
Brownfield, Texas 79316
(806) 637-7616

STATE REPRESENTATIVE

Jim D. Rudd

February 4, 1991

The Honorable Ron Lewis, Chair
House Committee on Natural Resources
Reagan Building, Room 214

Dear Chairman Lewis:

Please accept the following as the fiscal projections regarding HB 281 relating to the creation, administration, powers, duties, operation and financing of the South Plains Underground Water Conservation District.

1992 -	\$100,000.00
1993 -	75,000.00
1994 -	75,000.00
1995 -	75,000.00
1996 -	75,000.00

If I can be of further service, please contact me.

Sincerely,

A handwritten signature of Jim D. Rudd, written in dark ink, consisting of a stylized 'J' and 'R'.

Jim D. Rudd

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
John E. Birdwell, Commissioner
Cliff Johnson, Commissioner



John J. Vay, General Counsel
Michael E. Field, Chief Hearings Examiner
Brenda W. Foster, Chief Clerk

Allen Beinke, Executive Director

February 11, 1991

The Honorable Gib Lewis
Speaker of the House of Representatives
State Capitol Building, Room 238
Austin, Texas 78701

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59 (d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4, Section 37.

H.B. 281 by Rudd

Relating to the creation of the South Plains
Underground Water Conservation District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Allen Beinke".

Allen Beinke
Executive Director

Enclosures

cc: Representative Lewis, Chairman
House Natural Resources Committee
Representative Rudd

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE SOUTH PLAINS
UNDERGROUND WATER CONSERVATION DISTRICT

Water Development Policy Impact Statement for House Bill 281 (H.B. 281) Regular Session, 72nd Legislature, relating to the creation, administration, powers, duties, operation, and financing of the South Plains Underground Water Conservation District follow.

Wells located within the confines of this proposed district, which encompasses all of Terry County, obtain their water principally from the Ogallala (High Plains) aquifer which underlies the entire county. Additionally, Cretaceous rocks which are in hydrologic continuity with the Ogallala and considered to be part of the High Plains aquifer, can also yield water to wells. There appears to be no hydrogeologic justification for the determination of district boundaries. Terry County has been included as a part of a TWC/TWDB Critical Area study currently underway.

H.B. 281 provides that the proposed district would have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Texas Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. Specific impact statements related to required headings follow.

- 1) **Population projections** - The boundaries of the proposed District are coterminous with the boundaries of Terry County. In 1980, the population of Terry County was 14,581 residents. The population growth pattern over the past ten years reflects a decline in the County's population with a 1990 population of 13,218. However, the Board's current population projections indicate a reversal of this trend with the County's population ranging from 14,623 to 16,996 residents by the year 2010.
- 2) **District finances** - The financing of the district is authorized by reference to Chapter 52, Water Code. The district may issue and sell bonds, and levy ad valorem taxes to pay for all or part of the bonds and for the district's maintenance. The tax rate

is unlimited for the payment of bonds issued by the district. The tax rate shall not exceed 50 cents on each \$100 of assessed valuation for maintenance taxes. The board shall also include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.

- 3) **Board of directors & powers** - This proposed district is to be governed by a board of five directors. The bill provides for and describes three sets of boards of directors. These are a temporary board, an initial permanent board, and the permanent board. The temporary directors are listed in the act. If a temporary director fails to qualify for office, the qualified temporary directors shall appoint a person to fill the vacancy. In the event there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill the vacancies. Temporary directors serve until initial permanent directors are elected and the initial permanent directors serve until the permanent directors are elected. Other than initial permanent directors, permanent directors serve staggered four-year terms. Each director serves until his successor has qualified. Each director must qualify in the manner provided by Sections 51.078 and 51.079, Texas Water Code.

The temporary board shall call and hold a confirmation election including the election of five initial permanent directors. A person who desires to be a candidate for the office of initial permanent director may file an application with the temporary board to have their name printed on the ballot as provided by Section 52.107, Texas Water Code. At the election, the names of the five persons serving as temporary directors, together with any candidate filing for the office of director, shall be placed on the ballot. The ballot shall also provide blank spaces to write in the names of other persons. If the district is created at this election, the temporary directors at the time the vote is canvassed, shall declare the persons who receive the most votes to be elected as the initial permanent directors. The district shall include the results of the election in its election report to the Texas Water Commission. Section 41.001(a), Election Code, does not apply to the confirmation election; however, it must be conducted as provided by Sections 52.059(b) - (g), Texas Water Code, and the Election Code.

On the first Saturday of May of the second year after the year in which the district is authorized to be created, an election shall be held for the election of two permanent directors who shall serve two-year terms and three permanent directors who shall each serve four-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board. Thus, the permanent directors serve staggered four-year terms.

The district will have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapters 50 and 52, Texas Water Code, applicable to underground water conservation districts created under Article XVI, Section 59 of the Texas Constitution. These will primarily include the making and enforcement of rules for conserving, preserving, protecting, recharging, controlling subsidence, and preventing the waste of water of an underground water reservoir. The district would also have the authority to regulate spacing and production of water wells. This act prevails over any provision of general law that is in conflict or inconsistent with it.

- 4) **Effect on Texas Water Development Board's water plan** - The current and future water needs of the County's population, industries, and agriculture will continue to rely on area ground-water resources. The Board finds that creation of the proposed District agrees with the Board's State Water Plan objective of promoting the efficient use of ground-water resources and implementation of management programs for addressing local ground-water problems in order to enhance the availability of local ground-water supplies.
- 5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Sections 50.101 through 50.106, Texas Water Code, as well as the general reporting requirements mandated by the Texas Water Commission.

Annually, the district shall make available to the Commission information that it acquires concerning underground water resources within its

jurisdiction. The district shall also provide information to the Commission concerning its plans and activities in conserving and protecting underground water resources (Section 52.173).

Issuance of bonds and notes authorized for certain items must be approved by the Commission in the manner provided for in Chapter 52, Subchapter G, Texas Water Code. These include those authorized to: 1) erect or construct dams or to drain lakes, draws, depressions, and creeks; and 2) install pumps and other equipment.

- 6) **Eminent domain power** - This district may exercise this power to acquire any land or other property necessary to carry out this act.
- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district.
- 8) **Adequacy of the boundary description** - The bill provides that the district include all the area of Terry County, therefore, the boundary description is adequate in terms of closure. Portions of this county lie within Subdivision No. 4 of the Underground Water Reservoir in the Ogallala Formation, South of the Canadian River, which was delineated in 1956. This area was also part of The South Plains Underground Water Conservation District No. 4, which was created in 1966 and ruled invalid by the Texas Supreme Court. Another attempt was made to form a district, but it was not confirmed by the voters. There are no apparent conflicts between the boundaries of this district and other existing entities.
- 9) **Comment on powers and duties different from similar types of districts** - This bill proposes the creation of an underground water conservation district, with the powers that are given in

Chapters 50 and 52, Texas Water Code, related to these districts. There are no unusual or special powers or duties which have been granted to this district.

It is noted that Chapter 52 was amended in 1989 to remove references to Chapter 51. A new section was added to Chapter 52 providing for the oath of office taken by directors. This provision, Section 52.108, conflicts

with Section 51.078 referenced specifically in H.B. 281. However, the bill does contain the standard language providing that the act shall prevail in cases of conflict with general laws.

By: Rudd (Senate Sponsor - Montford) H.B. No. 281
(In the Senate - Received from the House March 11, 1991;
March 12, 1991, read first time and referred to Committee on
Natural Resources; April 2, 1991, reported favorably by the
following vote: Yeas 8, Nays 0; April 2, 1991, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	PNV	Absent
Sims	x			
Truan	x			
Armbrister				x
Barrientos	x			
Brown	x			
Carriker				x
Lucio				x
Ratliff	x			
Rosson	x			
Sibley	x			
Zaffirini	x			

A BILL TO BE ENTITLED
AN ACT

relating to the creation, administration, powers, duties,
operation, and financing of the South Plains Underground Water
Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. CREATION. (a) An underground water conservation
district, to be known as the South Plains Underground Water
Conservation District, is created in Terry County, subject to
approval at a confirmation election under Section 10 of this Act.
The district is a governmental agency and a body politic and
corporate.

(b) The district is created under and is essential to
accomplish the purposes of Article XVI, Section 59, of the Texas
Constitution.

SECTION 2. DEFINITION. In this Act, "district" means the
South Plains Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are
coextensive with the boundaries of Terry County, Texas.

SECTION 4. FINDING OF BENEFIT. All of the land and other
property included within the boundaries of the district will be
benefited by the works and projects that are to be accomplished by
the district under powers conferred by Article XVI, Section 59, of
the Texas Constitution. The district is created to serve a public
use and benefit.

SECTION 5. POWERS. (a) The district has all of the rights,
powers, privileges, authority, functions, and duties provided by
the general law of this state, including Chapters 50 and 52, Water
Code, applicable to underground water conservation districts
created under Article XVI, Section 59, of the Texas Constitution.
This Act prevails over any provision of general law that is in
conflict or inconsistent with this Act.

(b) The rights, powers, privileges, authority, functions,
and duties of the district are subject to the continuing right of
supervision of the state to be exercised by and through the Texas
Water Commission.

SECTION 6. ELECTION OF DIRECTORS. (a) The directors of the
district shall be elected according to the commissioners precinct
method as provided by this Act.

(b) One director shall be elected by the electors of the
entire district, and one director shall be elected from each county
commissioners precinct by the electors of that precinct.

(c) A person shall indicate on the application for a place
on the ballot the precinct that the person seeks to represent or
that the person seeks to represent the district at large.

(d) At the first election after the county commissioners
precincts are redrawn under Article V, Section 18, of the Texas
Constitution, four new directors shall be elected to represent the

precincts. The directors elected shall draw lots to determine their terms.

SECTION 7. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) A vacancy in the office of director shall be filled by appointment of the board until the next election for directors. If the position is not scheduled to be filled at the election, the person elected to fill the position shall serve only for the remainder of the unexpired term.

(c) To be eligible to serve as director, a person must be a registered voter in the precinct from which the person is elected or appointed if representing a precinct or in the district if representing the district at large.

SECTION 8. SERVICE OF DIRECTORS. (a) Temporary directors serve until initial directors are elected under Section 10.

(b) Initial directors serve until permanent directors are elected under Section 11.

(c) Permanent directors serve staggered four-year terms.

(d) Each director must qualify to serve as director in the manner provided by Sections 51.078 and 51.079, Water Code.

(e) A director serves until the director's successor has qualified.

SECTION 9. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

- (1) Lewis Waters - at large
- (2) Doyle Moss - Precinct No. 1
- (3) Ray Gober - Precinct No. 2
- (4) Charles Ray Smith - Precinct No. 3
- (5) Lee Wayne Rowden - Precinct No. 4

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors.

(b) A person, including a temporary director, who desires to be a candidate for the office of initial director may file an application with the temporary board to have the candidate's name printed on the ballot as provided by Section 52.107, Water Code.

(c) At the confirmation and initial directors' election, the temporary board of directors shall have the name of any candidate filing for the office of director as provided by Subsection (b) of this section placed on the ballot and blank spaces to write in the names of other persons. If the district is created at the election, the temporary directors, at the time the vote is canvassed, shall declare the person who receives the most votes in each precinct to be elected as director for that precinct and the person who receives the most votes in the district to be elected as director for the district at large. The district shall include the results of the directors' election in its election report to the Texas Water Commission.

(d) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(e) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 52.059(b)-(g), Water Code, and by the Election Code.

SECTION 11. ELECTION OF DIRECTORS. On the first Saturday in May of the second year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of the directors for Precinct Nos. 1 and 3, who shall each serve two-year terms, and the directors for Precinct Nos. 2 and 4 and for the district at large, who shall each serve four-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board.

SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

(a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Water Commission.

(b) The Texas Water Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 13. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

* * * * *

Austin, Texas
April 2, 1991

Hon. Bob Bullock
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred H.B. No. 281, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Sims, Chairman

**FAVORABLE
SENATE COMMITTEE REPORT ON**

SB SCR SJR SR HB HCR HJR 281

By Rudd / Montford
(Author/Senate Sponsor)

4-2-91
(date of submission to Senate)

Lt. Governor Bob Bullock
President of the Senate

Sir:

We, your Committee on Natural Resources, to which was referred the attached measure,
have on 3-27-91, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

☒ do pass and be printed

☐ do pass and be ordered not printed

☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☐ no

An actuarial analysis was requested. ☐ yes ☐ no

Considered by subcommittee. ☐ yes ☐ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Sims, Chairman	✓			
Truan, Vice Chairman	✓			
Armbrister			✓	
Barrientos	✓			
Brown	✓			
Carriker			✓	
Lucio			✓	
Ratliff	✓			
Rosson	✓			
Zaffirini	✓			
<u>Sibley</u>	✓			
TOTAL VOTES	4		3	

COMMITTEE ACTION

☒ S260 Considered in public hearing
☒ S270 Testimony taken

Joan Mays
COMMITTEE CLERK

Big Sam
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill
Deliver one copy of this form to the Calendar Clerk, Room 218 Capitol
Deliver one copy of this form to the Legislative Reference Library, Room 207B Capitol
Retain one copy of this form for Committee files

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

March 27, 1991

TO: Honorable Bill Sims, Chairman
Committee on Natural Resources
Senate Chamber
Austin, Texas

IN RE: House Bill No. 281,
as engrossed
By: Rudd

FROM: Jim Oliver, Director

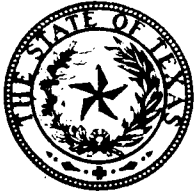
In response to your request for a Fiscal Note on House Bill No. 281, as engrossed (relating to the creation, administration, powers, duties, operation, and financing of the South Plains Underground Water Conservation District) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House as to its probable fiscal implication on units of local government.

Source: LBB Staff: JO, JWH, DF, JG, LC

Texas House of Representatives



- ☐ P.O. Box 2910
Austin, Texas 78768-2910
(512) 463-0678
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(806) 637-7616

STATE REPRESENTATIVE

Jim D. Rudd

February 4, 1991

The Honorable Ron Lewis, Chair
House Committee on Natural Resources
Reagan Building, Room 214

Dear Chairman Lewis:

Please accept the following as the fiscal projections regarding HB 281 relating to the creation, administration, powers, duties, operation and financing of the South Plains Underground Water Conservation District.

1992 -	\$100,000.00
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If I can be of further service, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim D. Rudd".

Jim D. Rudd

LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS

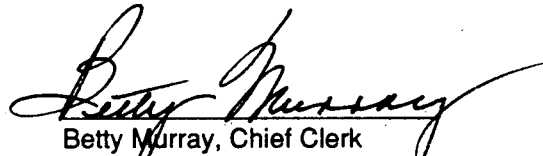
TO: The Honorable Ann W. Richards
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Water Commission copies of House Bill No. 281, a bill relating to a conservation and reclamation district, and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Water Commission, under Section 59(d), Article XVI, Constitution of the State of Texas.

JAN 16 1991

Date transmitted to
Governor's Office

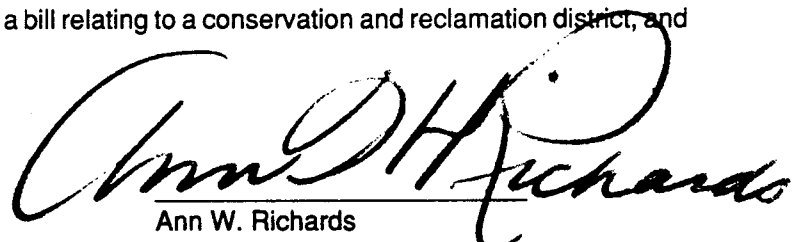

Betty Murray, Chief Clerk
House of Representatives

TO: Texas Water Commission

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of House Bill No. _____, a bill relating to a conservation and reclamation district, and a copy of the notice of intention to introduce the bill.

Jan. 17, 1991
Date transmitted to
Texas Water Commission


Ann W. Richards
Governor

TO: The Honorable Gibson D. "Gib" Lewis
Speaker of the House

The Honorable Bob Bullock
President of the Senate

The Honorable Ann W. Richards
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Water Commission on House Bill No. _____, in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.


Allen Beinke
Executive Director

TEXAS WATER COMMISSION



B. J. Wynne, III, Chairman
John E. Birdwell, Commissioner
Cliff Johnson, Commissioner

John J. Vay, General Counsel
Michael E. Field, Chief Hearings Examiner
Brenda W. Foster, Chief Clerk

Allen Beinke, Executive Director

February 11, 1991

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Speaker of the House of Representatives
State Capitol Building, Room 238
Austin, Texas 78701

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59 (d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4, Section 37.

H.B. 281 by Rudd

Relating to the creation of the South Plains
Underground Water Conservation District

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Allen Beinke
Executive Director

Enclosures

cc: Representative Lewis, Chairman
House Natural Resources Committee
Representative Rudd

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE SOUTH PLAINS
UNDERGROUND WATER CONSERVATION DISTRICT

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- 6) **Eminent domain power** - This district may exercise this power to acquire any land or other property necessary to carry out this act.
- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district.
- 8) **Adequacy of the boundary description** - The bill provides that the district include all the area of Terry County, therefore, the boundary description is adequate in terms of closure. Portions of this county lie within Subdivision No. 4 of the Underground Water Reservoir in the Ogallala Formation, South of the Canadian River, which was delineated in 1956. This area was also part of The South Plains Underground Water Conservation District No. 4, which was created in 1966 and ruled invalid by the Texas Supreme Court. Another attempt was made to form a district, but it was not confirmed by the voters. There are no apparent conflicts between the boundaries of this district and other existing entities.
- 9) **Comment on powers and duties different from similar types of districts** - This bill proposes the creation of an underground water conservation district, with the powers that are given in

Chapters 50 and 52, Texas Water Code, related to these districts. There are no unusual or special powers or duties which have been granted to this district.

It is noted that Chapter 52 was amended in 1989 to remove references to Chapter 51. A new section was added to Chapter 52 providing for the oath of office taken by directors. This provision, Section 52.108, conflicts

with Section 51.078 referenced specifically in H.B. 281. However, the bill does contain the standard language providing that the act shall prevail in cases of conflict with general laws.

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS

SS.

COUNTY OF TERRY

I, Lynn Brisendine, Publisher

THE BROWNFIELD NEWS

a newspaper of general circulation, printed and published in the City of Brownfield, County of Terry, State of Texas, do solemnly swear that a copy of the above notice, in the matter of

Notice Of Intent - South Plains Underground
Water Conservation District.
Legal # 3476

LEGAL NOTICES

NOTICE OF INTENT

This is to give notice of the intent to introduce a bill in the 72nd Legislature-a bill to be entitled an act, relating to the creation, administration, powers, duties, operation, and financing of the South Plains Underground Water Conservation District.

Legal #3476 - Published in the Brownfield News December 2, 1990.

as per clipping attached, was published weekly in the regular and entire edition of the said newspaper, and not in any supplement thereof, for a period of

.....1.....consecutive week(s), as follows, to-wit:

First publication.....December 2....., 19..90....

Last publication.....NIL....., 19..90..

Lynn Brisendine

Publisher

Subscribed and sworn to before me, this3rd.....day ofDecember....., 19...90...

Twyla F. Clark

TWYLA F. CLARK

Notary Public

My Commission expires September 4, 1994

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

Hon. Bill Haley, Chairman
Administration Committee

Sir:

Notice is hereby given that HB 281, by: Rudd / Montford,
(Bill No.) (author)
was heard by the Committee on Natural Resources on 3-27 19 91,
and reported out with the recommendation that it be placed on the Local Uncontested Bills Calendar.

John Mayer
Clerk of the reporting committee

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE BILL OR RESOLUTION SHOULD BE DELIVERED TO ROOM 419. DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR IS 5:00 P.M. FRIDAY.

Paper clip the original to the bill; retain one copy for reporting committee files; deliver one copy to the bill sponsor.

4
ENROLLED

H.B. No. 281

1 AN ACT

2 relating to the creation, administration, powers, duties,
3 operation, and financing of the South Plains Underground Water
4 Conservation District.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. CREATION. (a) An underground water conservation
7 district, to be known as the South Plains Underground Water
8 Conservation District, is created in Terry County, subject to
9 approval at a confirmation election under Section 10 of this Act.
10 The district is a governmental agency and a body politic and
11 corporate.

12 (b) The district is created under and is essential to
13 accomplish the purposes of Article XVI, Section 59, of the Texas
14 Constitution.

15 SECTION 2. DEFINITION. In this Act, "district" means the
16 South Plains Underground Water Conservation District.

17 SECTION 3. BOUNDARIES. The boundaries of the district are
18 coextensive with the boundaries of Terry County, Texas.

19 SECTION 4. FINDING OF BENEFIT. All of the land and other
20 property included within the boundaries of the district will be
21 benefited by the works and projects that are to be accomplished by
22 the district under powers conferred by Article XVI, Section 59, of
23 the Texas Constitution. The district is created to serve a public
24 use and benefit.

1 SECTION 5. POWERS. (a) The district has all of the rights,
2 powers, privileges, authority, functions, and duties provided by
3 the general law of this state, including Chapters 50 and 52, Water
4 Code, applicable to underground water conservation districts
5 created under Article XVI, Section 59, of the Texas Constitution.
6 This Act prevails over any provision of general law that is in
7 conflict or inconsistent with this Act.

8 (b) The rights, powers, privileges, authority, functions,
9 and duties of the district are subject to the continuing right of
10 supervision of the state to be exercised by and through the Texas
11 Water Commission.

12 SECTION 6. ELECTION OF DIRECTORS. (a) The directors of the
13 district shall be elected according to the commissioners precinct
14 method as provided by this Act.

15 (b) One director shall be elected by the electors of the
16 entire district, and one director shall be elected from each county
17 commissioners precinct by the electors of that precinct.

18 (c) A person shall indicate on the application for a place
19 on the ballot the precinct that the person seeks to represent or
20 that the person seeks to represent the district at large.

21 (d) At the first election after the county commissioners
22 precincts are redrawn under Article V, Section 18, of the Texas
23 Constitution, four new directors shall be elected to represent the
24 precincts. The directors elected shall draw lots to determine
25 their terms.

26 SECTION 7. BOARD OF DIRECTORS. (a) The district is
27 governed by a board of five directors.

1 (b) A vacancy in the office of director shall be filled by
2 appointment of the board until the next election for directors. If
3 the position is not scheduled to be filled at the election, the
4 person elected to fill the position shall serve only for the
5 remainder of the unexpired term.

6 (c) To be eligible to serve as director, a person must be a
7 registered voter in the precinct from which the person is elected
8 or appointed if representing a precinct or in the district if
9 representing the district at large.

10 SECTION 8. SERVICE OF DIRECTORS. (a) Temporary directors
11 serve until initial directors are elected under Section 10.

12 (b) Initial directors serve until permanent directors are
13 elected under Section 11.

14 (c) Permanent directors serve staggered four-year terms.

15 (d) Each director must qualify to serve as director in the
16 manner provided by Sections 51.078 and 51.079, Water Code.

17 (e) A director serves until the director's successor has
18 qualified.

19 SECTION 9. TEMPORARY DIRECTORS. (a) The temporary board of
20 directors is composed of:

21 (1) Lewis Waters - at large

22 (2) Doyle Moss - Precinct No. 1

23 (3) Ray Gober - Precinct No. 2

24 (4) Charles Ray Smith - Precinct No. 3

25 (5) Lee Wayne Rowden - Precinct No. 4

26 (b) If a temporary director fails to qualify for office, the
27 temporary directors who have qualified shall appoint a person to

1 fill the vacancy. If at any time there are fewer than three
2 qualified temporary directors, the Texas Water Commission shall
3 appoint the necessary number of persons to fill all vacancies on
4 the board.

5 SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

6 (a) The temporary board of directors shall call and hold an
7 election to confirm establishment of the district and to elect five
8 initial directors.

9 (b) A person, including a temporary director, who desires to
10 be a candidate for the office of initial director may file an
11 application with the temporary board to have the candidate's name
12 printed on the ballot as provided by Section 52.107, Water Code.

13 (c) At the confirmation and initial directors' election, the
14 temporary board of directors shall have the name of any candidate
15 filing for the office of director as provided by Subsection (b) of
16 this section placed on the ballot and blank spaces to write in the
17 names of other persons. If the district is created at the
18 election, the temporary directors, at the time the vote is
19 canvassed, shall declare the person who receives the most votes in
20 each precinct to be elected as director for that precinct and the
21 person who receives the most votes in the district to be elected as
22 director for the district at large. The district shall include the
23 results of the directors' election in its election report to the
24 Texas Water Commission.

25 (d) Section 41.001(a), Election Code, does not apply to a
26 confirmation and initial directors' election held as provided by
27 this section.

1 (e) Except as provided by this section, a confirmation and
2 initial directors' election must be conducted as provided by
3 Sections 52.059(b)-(g), Water Code, and by the Election Code.

4 SECTION 11. ELECTION OF DIRECTORS. On the first Saturday in
5 May of the second year after the year in which the district is
6 authorized to be created at a confirmation election, an election
7 shall be held in the district for the election of the directors for
8 Precinct Nos. 1 and 3, who shall each serve two-year terms, and the
9 directors for Precinct Nos. 2 and 4 and for the district at large,
10 who shall each serve four-year terms. Thereafter, on the same date
11 in each subsequent second year, the appropriate number of directors
12 shall be elected to the board.

13 SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

14 (a) The proper and legal notice of the intention to introduce this
15 Act, setting forth the general substance of this Act, has been
16 published as provided by law, and the notice and a copy of this Act
17 have been furnished to all persons, agencies, officials, or
18 entities to which they are required to be furnished by the
19 constitution and other laws of this state, including the governor,
20 who has submitted the notice and Act to the Texas Water Commission.

21 (b) The Texas Water Commission has filed its recommendations
22 relating to this Act with the governor, lieutenant governor, and
23 speaker of the house of representatives within the required time.

24 (c) All requirements of the constitution and laws of this
25 state and the rules and procedures of the legislature with respect
26 to the notice, introduction, and passage of this Act are fulfilled
27 and accomplished.

1 SECTION 13. EMERGENCY. The importance of this legislation
2 and the crowded condition of the calendars in both houses create an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to be read on three several
5 days in each house be suspended, and this rule is hereby suspended,
6 and that this Act take effect and be in force from and after its
7 passage, and it is so enacted.

H.B. No. 281

President of the Senate

Speaker of the House

I certify that H.B. No. 281 was passed by the House on March 7, 1991, by the following vote: Yeas 139, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 281 was passed by the Senate on April 12, 1991, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 281[✓]
(1) was passed by the House
on March 7[✓]
(2), 1991, by the following vote:

Yeas 139[✓], Nays 0[✓], 2[✓] present, not voting
(3) (4)

Chief Clerk of the House

I certify that H.B. No. 281[✓]
(5) was passed by the Senate
on April 12[✓]
(5), 1991, by the following vote:

Yeas 31[✓], Nays 0[✓]
(6) (7)

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: CT25;

H. B. No. 281

By Rudd

A BILL TO BE ENTITLED
AN ACT

relating to the creation, administration, powers, duties, operation,
and financing of the South Plains Underground Water Conservation District.

JAN 2 1991

1. Filed with the Chief Clerk.

JAN 29 1991

2. Read first time and Referred to Committee on

Natural Resources

FEB 18 1991

3. Reported ☒ favorably ~~(as amended)~~
~~(as substituted)~~ and sent to Printer at 7:30p

FEB 19 1991

4. Printed and distributed at 12:30am

FEB 19 1991

5. Sent to Committee on Calendars at 8:29 am

MAR 7 1991

6. Read second time no subs. ~~(amended)~~; passed to third reading ~~(failed)~~ by (Non-Record Vote)
~~(Record Vote of _____ yeas, _____ nays, _____ present, not voting)~~

7. Motion to reconsider and table the vote by which H.B. _____ was ordered
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas,
_____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed
to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____
present, not voting.

MAR 7 1991

9. Read third time ~~(amended)~~; finally passed ~~(failed)~~ by ~~(Non-Record Vote)~~ (Record Vote
of 139 yeas, 0 nays, 2 present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed
prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____
nays, and _____ present, not voting).

MAR 7 1991

12. Ordered Engrossed at 11:25am

MAR 7 1991

13. Engrossed.

MAR 7 1991

14. Returned to Chief Clerk at 9:07p

MAR 11 1991

15. Sent to Senate.

Betty Munsy
Chief Clerk of the House

MAR 11 1991

16. Received from the House

MAR 12 1991

17. Read, referred to Committee on NATURAL RESOURCES

APR - 2 1991

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read
first time.

20. Ordered not printed.

21. Regular order of business suspended by
(a viva voce vote.)
(_____ yeas, _____ nays.)

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

APR 12 1991

Laid before the Senate

23. Read second time _____ passed to third reading by: _____
(a viva voce vote.) _____ yeas, _____ nays.)

24. Caption ordered amended to conform to body of bill.

APR 12 1991

25. Senate and Constitutional 3-Day Rules suspended by vote of 31 yeas, 0 nays to place bill on third reading and final passage.

APR 12 1991

26. Read third time and passed by

(a viva voce vote.)
(31 yeas, 0 nays.)

OTHER ACTION:

OTHER ACTION:

Betty King
Secretary of the Senate

APR 12 1991

27. Returned to the House.

APR 12 1991

28. Received from the Senate (with amendments.)
(as substituted.)

29. House (Concurred) (Refused to Concur) in Senate (Amendments) (Substitute) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

APR 12 1991

32. Ordered Enrolled at 10:32am

HOUSE OF REPRESENTATIVES

91 MAR -7 PM 9:07

HOUSE OF REPRESENTATIVES

91 FEB 19 AM 12:30

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